



JUDICIAL INVESTIGATION COMMISSION

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February 12, 2008

JIC Advisory Opinion 2008-01

Dear Judge

In a letter to the Judicial Investigation Commission you asked for an advisory opinion. You stated that you have filed as a candidate to run for the ____ Judicial Circuit. An attorney who frequently practices before you is serving as your campaign manager. Additionally, this attorney's associate also practices before you on a regular basis. It is your intent to disclose this political relationship prior to hearings involving your campaign manager and/or his associate when they are counsel. You started doing this after you filed pre-candidacy papers. Most parties have not objected to you presiding over the case. You asked if one of the parties does object to you presiding over the case involving your campaign manager and/or his associate are you required to voluntarily recuse yourself or should the matter be referred to the Supreme Court of Appeals of West Virginia for a decision.

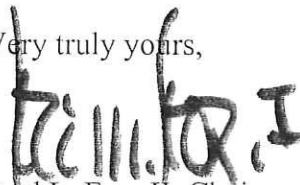
To address the questions that you have raised, the Commission has reviewed Canon 3 of the Code of Judicial Conduct. Canon 3E(1) states that a judge shall disqualify himself/herself in a proceeding in which the judge's impartiality might reasonably be questioned. This Canon requires a judge to disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification even if the judge believes that no real basis for disqualification exists. Based on the language set forth in this Canon and the following commentary, the Commission feels that the disclosure that you are making is required. See, Tennant v. Marion Health Care Foundation, Inc., 194 W.Va. 97, 459 S.E.2d 374 (1995). See also JIC Advisory Opinion 12/13/95, and JIC Advisory Opinion 4/1/03, which are attached hereto for your information.

The Honorable
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It is the feeling of the Commission that if one of the parties does object to you presiding over a case involving your campaign manager, the procedure governing recusal in other cases pending in the Family Court should be followed.

It is hoped that this opinion fully addresses the questions which you have raised. If there is any other question concerning this matter do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Fred L. Fox, II". The signature is stylized with a large, prominent "F" and "L".

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

FLF:nb

Enclosure